Testimony of Congressman Marty Meehan

Massachusetts, 5th Congressional District

Before the

Committee on House Administration

Hearing on the "527 Reform Act"

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Chairman Ney, Ranking Member Millender-McDonald, members of the Committee, thank you for the opportunity to speak to you today about HR 513, the "527 Reform Act."

Over the last few years, we've made enormous strides reducing the corrupting influence of soft money in federal elections. I'm here today to emphasize the importance of continuing to move forward, not backward.

The campaign finance reform bill that Congressman Shays and I wrote and President Bush signed into law in March 2002 is working. The Bipartisan Campaign Reform Act of 2002 has succeeded in its central purpose -- severing the link between federal candidates and unlimited soft money contributions.

Despite some misperceptions, the intent of BCRA was never to eliminate money in politics. The intent was to reduce the disproportionate, corrupting influence of six- and seven-figure donations to federal campaigns, and to give ordinary citizens a greater say in the political process.

BCRA has done exactly that. In the 2004 cycle – fueled by small-dollar, individual, and Internet contributions – candidates and parties raised more in hard money than they raised in hard and soft money combined in the 2000 cycle.

Senator Kerry's presidential campaign raised ten times as much in donations of under $200 than Vice President Gore did in 2000. President Bush quadrupled his small donor base from 2000 to 2004.

The DNC added more than 2 ½ million new donors; the RNC, more than one million.

This increased citizen involvement is a positive trend – and it was enabled by the end of the soft money system.

Washington Post columnist David Broder was one of the leading skeptics of campaign finance reform. But after looking at the results, Mr. Broder wrote, "As one who is skeptical of the

claimed virtues of the McCain-Feingold [Shays-Meehan] campaign finance law, I am happy to concede that it has, in fact, passed its first test in the 2004 campaign with flying colors....[A] solid start has been made in expanding the financial base of both parties and using the resources to bring more people into the electorate. That is all to the good."

Unfortunately, during an election cycle when grassroots activity flourished, a small set of organizations were allowed to play by a different set of rules. 527 groups became the preferred vehicle for large donors to steer enormous sums of soft money into federal elections. Despite its clear mandate, the Federal Election Commission refused to enforce the law.

We are here today not because of any failure by Congress or the courts. We're here because the FEC has ignored thirty years of congressional actions and Supreme Court jurisprudence in allowing 527s to evade the law.

Ever since 1976, the Supreme Court has interpreted the Federal Election Campaign Act (FECA) to provide that if any organization spends $1,000 or more on "expenditures" and has a "major purpose" of influencing federal elections, it must register with the FEC as a political committee. And it must play by the same rules as all other political committees, including contribution limits, source prohibitions, and reporting requirements.

527s – by their very definition – have the primary purpose of influencing federal elections. Yet the FEC has refused to do its job and regulate them.

With the nation's election watchdog looking the other way, record amounts of soft money were steered into 527s in the 2004 cycle – a total of more than $400 million, according to the Campaign Finance Institute.

According to campaign finance scholar Tony Corrado, $146 million in soft money came from just 25 wealthy individuals. Ten donors gave at least $4 million each and two donors gave more than $20 million.

The "Swift Boat" slander campaign against Senator Kerry was financed by two wealthy Texans who contributed $6 million each.

The danger in allowing 527s to continue to evade the law is the risk of ushering back the corrupt soft money system, where corporations, unions, and wealthy individuals could buy influence with million-dollar checks – and where politicians could shake down big donors for soft money donations to funnel into federal campaigns.

527s claim to be independent. But Michael Malbin of the Campaign Finance Institute has noted that the largest 527s were established and managed by individuals closely associated with the Democratic and Republican parties and presidential campaigns.

Even if we assume that 527 groups are entirely independent of federal candidates and parties, the Supreme Court has made clear that Congress can still require them to raise and spend hard money for their activities that affect federal elections.

There is no common sense reason or legal basis to allow 527s to ignore the rules that apply to all other political committees spending money to influence federal elections.

There's a simple solution to the question of 527s that ensures fairness and prevents abuse of the law – make them play by the same rules as everyone else.

In September, Congressman Shays and I filed suit against the FEC for failing to issue regulations on 527s. This is not the first instance in which the FEC has done more to undermine campaign law than enforce it.

The Supreme Court in the McConnell case made clear that FEC regulations had caused the soft money problem in the first place, forcing Congress to act in 2002. After BCRA passed, the FEC went to work writing regulations to undermine the statute and Congress's intent. Last fall, a federal district court struck down 15 of the FEC's 19 regulations that Congressman Shays and I had challenged – a clear and stinging rebuke against an agency that has renounced its responsibility to enforce the law.

We expect the court to side with the law and against the FEC on 527s as well. But it is essential that we resolve this problem in a timely manner. That is why we've introduced bipartisan, bicameral legislation that has a simple, straightforward purpose -- to clarify and reaffirm that 527 groups spending money to influence federal elections must comply with the same laws that apply to all other political committees.

Our bill has the support of a growing coalition of bipartisan House and Senate members, including the Senate sponsors of BCRA, Sens. McCain and Feingold, as well as Senate Rules and Administration Chairman Trent Lott and Sen. Chuck Schumer, who heads the Democratic Senate Campaign Committee. The bill has nine bipartisan co-sponsors in the House.

The 527 Reform Act forces the FEC to do something it should have done long ago – require any 527 group involved in federal elections to register as a political committee.

It ensures that 527 groups running ads that refer to federal candidates pay for them with hard money.

It closes a loophole that was abused in 2004 by requiring that when 527s spend money on voter mobilization activities or public communications that affect both federal and non-federal elections, at least 50% of the costs must be paid for with hard money, and all nonfederal funds must be subject to an individual contribution limit of $25,000.

I'd like now to address some of the concerns that have been raised about the 527 Reform Act. I am confident that when members look carefully at the issues, it will become clear that many of these concerns are groundless.

First, the 527 Reform Act is not intended to "shut down" 527 organizations. 527s have a constitutional right to organize and to participate in elections. It simply shuts down the 527 soft money loophole.

Second, the bill explicitly exempts state and local candidates and their campaign committees. It exempts any 527 organization involved exclusively in state or local elections. In addition, no 527 with annual receipts of less than $25,000 is covered by this bill.

Third, the 527 Reform Act does not affect any groups other than 527 groups. It simply does not apply to 501(c)3 or 501(c)4 organizations. The difference between 527s and 501(c)s is clear in their very definition under the tax code. 527s are by definition "organized and operated primarily" for the purpose of influencing elections. Under their definition in the tax code, 501(c)4s cannot have a primary purpose of influencing elections while 501(c)3s cannot spend any money in elections.

We've made it explicit in the bill – and I'll make it clear again today – we have no intention to change the rules that apply to 501(c) organizations.

I have not heard a substantive argument that the 527 Reform Act will have an impact on 501(c)s. But if our bill can be made even clearer on this issue or on other potential concerns, we are more than willing to work with you to tighten the language.

I will close with a final point: It is essential that legislation to close the 527 loophole not be used as a vehicle to backtrack on BCRA or to undermine any existing campaign finance laws. We must not usher the return of the corrupt soft money system only three years after Congress put an end to it.

I'd like once again to thank Chairman Ney, Ranking Member Millender-McDonald, and the members of the Committee for the opportunity to discuss the 527 Reform Act.

I look forward to working with you to end abuses of the campaign finance system and restore greater confidence in the political process.